COMMONWEALTH OF VIRGINIA, *ex rel.*

STATE CORPORATION COMMISSION

v. **CASE NO. PUE-2001-00072**

AUBON WATER COMPANY,
Defendant

REPORT OF MICHAEL D. THOMAS, HEARING EXAMINER

March 12, 2003

By Order entered March 1, 2001, the Commission found that Aubon Water Company ("Aubon" or the "Company") had been grossly mismanaged and had failed to comply with previous Commission Orders. The Commission appointed a Receiver to assume control of Aubon and manage the day-to-day operations of the Company. The Receiver was authorized to do all acts necessary or appropriate for the conservation or rehabilitation of Aubon as enumerated in the Order. The Order further required the Receiver to make quarterly reports to the Commission's Division of Energy Regulation (the "Staff"). The Commission directed that all costs, expenses, fees, or any other charges of the receivership were to be paid from the assets of Aubon.

Pursuant to the Order Appointing Receiver, a hearing was held on March 28, 2001, to consider extending the receivership and to review the Plan of Receivership filed by the Staff. The Receiver and his counsel participated in the hearing. The Staff appeared by its counsel. No members of the public appeared or otherwise participated in the hearing after receiving notice of the same. The Staff, joined by the Receiver, moved the Commission for an extension of the receivership and approval of the Plan of Receivership, as amended on the record by agreement of counsel for the Staff and the Receiver.

By Order entered on March 30, 2001, the Commission extended the appointment of the Receiver until further order of the Commission, approved the Plan of Receivership, as amended, and continued the matter generally.

On June 12, 2001, the Commission entered an Order authorizing the Receiver to disburse the balance of the escrow account to pay the past due amounts owed to Spectrum Design ("Spectrum") for services rendered on the Long Island Estates water treatment facility. Spectrum would not proceed with engineering services for the Company's Alton Park water system until it had been paid. The well serving the Alton Park water system had failed and trucking water to the system was draining the Company's limited financial resources.[1] The need to procure engineering services to design the new water system for Alton Park was paramount to the Company's survival.

[1] Based on an average consumption of 3,300 gallons of water per month, the Alton Park water system would generate approximately $783.90 ($20.10 x 39 customers) in monthly revenue for the Company. *See*, Report of Michael D. Thomas, Hearing Examiner, Case No. PUE-1999-00002. After the well failed, the Company had to haul approximately

The Receiver filed his first quarterly report on the Company on June 7, 2001. The report included copies of the Virginia Department of Health, Office of Water Programs' ("VDH") inspection reports of the Company's water systems. The reports highlight the generally poor condition of the various water systems at the time the Receiver assumed operational control of the Company and the remedial measures needed to bring the systems into compliance with VDH requirements.

On September 7, 2001, the Receiver filed with the Commission a Request for Approval to Transfer Assets. The Receiver sought to transfer the Franklin Heights water system to the Town of Rocky Mount for the sum of $50,000.00. The Receiver negotiated the sale of the Franklin Heights water system to the Town to resolve any dispute over who had the right to provide water service to the residents of the Franklin Heights subdivision.

On September 13, 2001, the Receiver filed a Petition for Authority to Acquire Aubon Water Company. Prior to being appointed Receiver, Mr. David Petrus entered into an agreement with Mr. G. Ray Boone, the Company's president. The agreement provided that should Mr. Petrus decide to assume ownership of the Company at any time during the receivership, Mr. Boone would make no claim of ownership, for any asset, or for any sum of money. Mr. Boone waived and assigned to Mr. Petrus any and all rights he may have had in the Company, provided Mr. Petrus decided to assume ownership. Mr. Petrus represented that he had provided Mr. Boone with notice of his intent to assume ownership of the Company. Finally, Mr. Petrus indicated in the Petition that upon approval of the transfer of ownership of the Company, the Commission could terminate the receivership and close the case.

On September 20, 2001, the Commission entered an Order for Notice and Granting Leave to file Objections, Comments, or Requests for Hearing and Directing Staff Report to be Filed. The Commission determined that all parties and customers of the Company should have an opportunity to file written objections, written comments, or written requests for hearing on the Receiver's request for approval of the Agreement with the Town of Rocky Mount, the Stipulation of the parties and Staff to settle the escrow account issue, and the Receiver's Petition to Acquire. The Commission set a deadline of October 11, 2001, for filing comments or requests for hearing. No comments or requests for hearing were filed.

By Order entered on December 21, 2001, the Commission approved the transfer of the Franklin Heights water system to the Town of Rocky Mount, subject to two conditions. First, the Receiver was directed to file a report with the Staff providing notice of the date that the transfer takes place and to file such report within 30 days of such transfer. Second, the Receiver was directed to submit a report to the Staff within 30 days of receipt of the $50,000.00 consideration paid by the Town of Rocky Mount. The report would include a plan detailing how the money could best be spent for the benefit of Aubon's remaining customers. The Receiver was also prohibited from spending any money received from the Town without prior approval of the Commission.

3,500 gallons of water at least every other day at a cost of $135.00 per load to supply the system. During the period March 1, 2001 through June 30, 2001, the Company paid an average of $2,050.00 per month in water hauling charges. For the remainder of 2001, the charges averaged $1,310.00 per month. The water hauling charges were incurred to supply both Alton Park and the Company's Franklin Heights water system, which experienced several water main breaks that drained the system. *See*, Ex. 3.

On April 24, 2002, the Receiver filed a petition to impose a surcharge on the water rates paid by the Company's customers served by the Long Island Estates water system. The purpose of the surcharge was to satisfy a requirement necessary to secure financing through the Virginia Drinking Water State Revolving Fund Program ("VDWSRFP") for construction of the water treatment facility to serve the Long Island Estates subdivision. The surcharge applied only to the water customers in Long Island Estates. The Receiver proposed a formula to calculate the surcharge. The initial proposed surcharge was $12.34. At the time, the Company's customers were advised that the "surcharge may be adjusted per billing cycle . . . based on changes in the number of connected customers, or revisions to the construction costs." The request for the surcharge was filed as an emergency rate increase.

By Order entered on May 10, 2002, the Commission approved the Company's request for imposition of a temporary increase in rates and directed the Company to implement the emergency rates contained in its petition. The Commission further directed the Company to make a copy of the emergency rates and the Commission's Order available to its customers, and directed the Staff to investigate the application and file a report of its findings on or before July 30, 2002.

On July 30, 2002, the Staff filed a Motion to Modify Procedure. Since the loan for the water treatment facility had not yet closed, the Staff moved to extend the date for filing its report on the Company's emergency rate increase. The Staff stated that its investigation could be completed once the final loan amount was approved and the loan closed. The Staff further stated that two adjustments to the loan application had not been finalized. The Staff proposed to submit its report on the emergency rate increase in the form of prefiled testimony as part of a hearing to approve the emergency rates.

By Order entered on July 30, 2002, the Commission vacated the filing date for the Staff report. The Commission indicated it would enter a procedural order after the VDWSRFP loan closed, requiring the Staff to conduct its investigation prior to any hearing conducted pursuant to § 56-245 of the Code of Virginia.

By Order entered January 2, 2003, the Commission scheduled a public hearing for February 5, 2003, and consolidated Case Nos. PUE-1998-00628; PUE-1999-00002; and PUE-2000-00567 with Case No. PUE-2001-00072 for the purpose of receiving the reports of the Receiver and the Staff and determining whether the emergency rates implemented by the Receiver should be made permanent. The Commission directed the Receiver to file a report with the Commission updating certain actions undertaken on the Company's behalf. The Commission further directed the Staff to review the actions taken by the Receiver and investigate the need for the emergency rate relief.

On February 5, 2003, a hearing was convened as scheduled in the consolidated cases. The Company appeared by its Receiver, Mr. David G. Petrus. The Staff appeared by its counsel, Don R. Mueller, Esquire. The reports prepared by the Receiver and Staff were accepted into evidence.

The Receiver's report provided an Operational Summary, a Financial Summary, a discussion of the Surcharge, and a Company Summary. In his Operational Summary, the Receiver

described the repairs needed to the various water systems, including the Franklin Heights system that was ultimately sold to the Town of Rocky Mount. (Ex. 3, at 1-2). A recent inspection by the VDH disclosed substantial work that still needs to be done by the Receiver to bring the three remaining water systems into compliance with VDH drinking water standards. (Ex. 4).

In his Financial Summary, the Receiver stated the Company still lacks sufficient revenue to properly operate the systems. The high cost of improvements, unforeseen repairs, and higher operating costs have been major financial drains on the Company. The loss of Franklin Heights' 144 customers has impacted the Company's cash flow. The $50,000 received from the Town of Rocky Mount from the sale of the Franklin Heights water system was used to pay off accumulated debt due to system improvements, upgrades, and operational expenses. At present, the Company has $36,002.43 in outstanding debt. A major contributor to the higher than anticipated operating expenses has been the new green sand filter system at Long Island Estates. The system requires a daily visit from the operator to backwash the system. The higher costs are due to labor, chemicals, and supplies required to properly operate the system. The Receiver anticipates filing for a general rate increase to offset the higher operating costs. (Ex. 3, at 2-3).

The Receiver implemented the surcharge to repay the VDWSRFP loan for the Long Island Estates water treatment facility; however, the loan did not include all of the project's costs. Engineering and design costs were not included in the loan because the former owner of the Company did not follow competitive bid procedures as specified by VDWSRFP. The project engineer is owed approximately $3,712.35.[2] The first loan payment to VDWSRFP is due on April 1, 2003. This payment is for interest only in the amount of $2,835.47. Commencing October 1, 2003, and semi-annually thereafter on April 1 and October 1, the principal and interest shall be payable in equal installments of $5,241.13, with the final installment due on October 1, 2022. (Ex. 3, at 2; Ex. 5).

In summary, the Receiver believes the Company needs a substantial rate increase in order to survive. The three systems need additional improvements and the Company's financial condition continues to be poor due to the high number of repairs and required improvements. (Ex. 3).

In its report, the Staff outlined the history of the Company and the various cases that led to the Commission placing the Company into receivership. Additionally, the Staff reviewed the Company's surcharge, analyzed the Company's rates, discussed depreciation of the water treatment facility and its proper treatment in future rate proceedings, and discussed the Company's failure to file certain reports. (Ex. 1, at 1-8).

After a review of the Company's proposed surcharge, the Staff believes that to properly account for the semi-annual interest payments on the loan, the surcharge would have to be increased to $18.59 based on the current customer count. The Staff also calculated an alternative surcharge of $17.96, if the excess surcharge collections are applied to the principal of the loan, rather than the

[2] As of February 12, 2003, Spectrum is owed $9,103.98. The Staff estimates that the Company will have collected $8,227.10 through the surcharge by March 31, 2003. The first interest payment on the loan is due April 1, 2003, in the amount of $2,835.47. If the excess surcharge collections of $5,391.63 are applied to the outstanding balance due Spectrum, this reduces the amount owed Spectrum to $3,712.35.

outstanding balance due Spectrum. If the customer count at Long Island Estates changes, the Staff expects the Company to immediately file a revised surcharge. (Ex. 1, at 8-12).

The Staff reviewed the Company's rates. Based on the Company's current tariff rates, before application of the surcharge and excluding the plant upgrade and associated costs, the Long Island Estates water system is operating at a loss. The Staff is of the opinion that additional operating costs for the water treatment facility should be included in the Company's tariff rates, not the surcharge. (Ex. 1, at 12).

The Staff believes the Commission should require the Company to depreciate the water treatment facility at a rate of 5% over a period of 20 years. The water treatment facility is supported by a 20-year loan, and the Staff believes the asset should be depreciated over the same period of time as the loan to properly reflect the capital recovery period. If a longer depreciation period were used, the ratepayers would fund more than the cost of the plant. Since the capital costs for the water treatment facility are included in the surcharge, the Staff believes the costs should be excluded from future rate proceedings. (Ex. 1, at 13).

The Staff noted the Receiver has not diligently filed progress reports on the status of the Company and its financial condition, and in several instances failed to comply with Commission orders requiring such reports. In lieu of such reports, the Staff recommends that the Commission accept the Receiver's report filed in this case as satisfying all previous reporting requirements. However, the Staff believes the Receiver should be required to supplement his report with the following: (1) a detailed accounting of the revenues collected via the surcharge by month; (2) a detailed breakdown of how the $50,000 received from the Town of Rock Mount was spent; and (3) invoices for all outstanding debts owed to Petrus Environmental Services. Provided the Receiver files this information with the Commission, the Staff recommends that he be relieved of the requirement to file quarterly reports on the Company. The Staff believes any further reporting requirement would be overly burdensome since the Company is operating at a loss. (Ex. 1, at 14-15).

In its prefiled additions to its report, the Staff made the following recommendations applicable to this matter:

1. Petrus Environmental Services' ("Petrus") Petition to Acquire Aubon Water Company should be approved; [3]
2. The Long Island Estates surcharge should be made permanent, expiring at the end of the 20-year amortization period as of September 30, 2022. The final surcharge amount should be determined by the Commission based on its decision on the appropriate disposition of the excess revenue collections during the interim period;
3. Adjustments to the surcharge should be allowed, to reflect any changes in the total number of customers connected to the Long Island Estates system. The Company would be required to file a revised surcharge during any billing cycle where additional customers have been added to the system. The revised surcharge should be approved administratively by Staff;

[3] The Staff listed this as a recommendation in Case No. PUE-2000-00567; however, the Petition was filed in this case.

4. The Receiver should be required to file additional information as detailed above to complete the January 16, 2003, status report. Upon completion, the status report should be accepted as satisfying all of the previous quarterly reporting requirements;
5. The Receiver should no longer be required to file quarterly reports; plant costs associated with the water treatment facility should be depreciated over 20 years to coincide with the loan amortization period;
6. The Company should maintain detailed records supporting monthly surcharge revenues and semi-annual loan payments and make such information available for Staff's review upon request; and
7. The Receiver should file a report with the Commission's Director of Public Utility Accounting providing the date(s) of transfer(s) of each of the two parcels approved in Case No. PUE-2000-00567.

Ex. 1, at 17; Ex. 2.

At the hearing, the Receiver provided an overview of the Company's condition. He suggested that the overage collected from the surcharge be used to pay off the Company's debt associated with the water treatment facility. This would be the outstanding amount owed Spectrum. He testified that the $50,000 payment from the Town of Rocky Mount was used to pay for repairs to the water systems, ongoing pump failures, and waterline breaks, as well as the costs for hauling water, and a whole host of other problems encountered by the systems, including the new well for Alton Park. (Tr. at 38-46).

The Receiver indicated that the water treatment facility for Long Island Estates has been a success. Except for additional costs to operate the facility because of the poor source water, the system has been providing the Company's customers with good quality water. He believes the Company's customers have saved money because they no longer have to operate their own home filtration systems. There has been no opposition to the surcharge. The Receiver endorsed the idea proposed by the Hearing Examiner of including the remaining amounts owed to Spectrum in the surcharge and paying off that debt in one year. The surcharge would then automatically decrease. The Hearing Examiner directed the Staff and the Receiver to calculate one surcharge that would pay off all of the outstanding costs associated with the water treatment facility. (Tr. at 33, 48, 55-58).

The Receiver questioned the Staff's use of a 5% depreciation rate for the water treatment facility. He believes the depreciation rate would have an impact on the Company's profitability. (Tr. at 62-63).

Mr. Greg Flory, director of operations of Petrus, provided an overview of the condition of the water systems at the time the Company was placed in receivership. Mr. Flory formerly worked with VDH and was present when the systems were inspected. The four systems were in a serious state of disrepair. Mr. Flory outlined the work that has been done on the systems and the work that remains to be done. The three remaining systems still do not comply with VDH standards. The most recent VDH inspection reports detail the work that remains to be done. (Tr. at 65-75; Ex. 4).

Per the Hearing Examiner's Request, the Staff and the Receiver determined that the total amount still owed to Spectrum is $9,103.98, which includes finance charges of $849.23. Since the

surcharge has been in effect, it has generated funds in excess of the first required loan payment, which is an interest only payment. If the excess amount collected were applied to the Spectrum debt, this would reduce the amount owed to Spectrum to $3,712.35. The Staff calculated that $6.58 would have to be added to the surcharge for one year to pay off the Spectrum debt. (Ex. 5, Attachment C).

While the Staff agreed the Spectrum costs were legitimate project costs incurred in developing the water treatment facility, it opposes adding $6.58 to the surcharge. The Staff believes inadequate notice was given to the Company's customers. Additionally, the Staff opposes recovering the costs over a one-year period because it believes the higher bills would be unduly burdensome to the Company's customers. Finally, the Staff has concerns that adding the $6.58 to the surcharge would violate the 12-month rule regarding rate increases. (Ex. 5, at 1-3).

DISCUSSION

Since March 1, 2001, when Aubon Water Company was placed in receivership, the Receiver has made tremendous strides in improving the reliability of the Company's water systems, improving the quality of the water provided to the Company's customers, and setting the Company on a course for financial viability. While not always meeting the reporting requirements established by the Commission, the Receiver cannot be faulted for his efforts to get the various water systems into compliance with VDH safe drinking water standards. Although not quite there yet, the systems are much closer to meeting VDH's safe drinking water standards. As outlined in the VDH's most recent inspection reports, work remains to be done on all three remaining systems.

There are four major issues for the Commission to decide in this case: (1) whether to approve Petrus Environmental Services' Petition to Acquire the Company; (2) whether to approve the surcharge that was filed as an emergency rate increase; (3) whether to increase the surcharge for one year to pay off the amount owed Spectrum for engineering services provided on the water treatment facility; and (4) whether to continue this case so that all matters related to the receivership estate may be heard in one case for matters of judicial economy.

The Receiver requests that any decision on Petrus's Petition to Acquire Aubon Water Company be deferred until adequate rates are in place for the Company. The Receiver intends to file a request for a general rate increase for the Company. In the opinion of the Receiver, the Company is operating at a deficit. The Staff has confirmed that the Long Island Estates water system is operating at a loss.

In reviewing this case, it appears the Receiver's lack of experience in administering receivership estates has inured to the benefit of the Company's ratepayers. It is readily apparent that Petrus placed its own capital at risk in rehabilitating the Company. The financial burden of making all the operational improvements to the water systems should have been borne by the Company's ratepayers.[4] Quite rightly, Petrus does not want to assume any additional liability until

[4] In retrospect, emergency rates should have been put into effect 30 days after placing the Company in receivership. The Receiver would have had an opportunity to assess the condition of the Company and its various water systems, and sufficient revenue to make needed repairs to the various systems and pay for administration of the receivership estate.

adequate rates are in place. I agree with Petrus that the Commission should defer ruling on its Petition to Acquire Aubon Water Company.

The next two issues are interrelated. The emergency rate increase implemented a surcharge on the Long Island Estates water customers so that the Company could prove that it had sufficient revenues to pay off the VDWSRFP loan. In the Notice of Surcharge for Long Island Estates Water Treatment Filter Upgrade, the Company advised its customers that:

> [t]he purpose of this Surcharge is to pay for filter system upgrades to the Long Island Estates water system owned by Aubon Water Company. This Surcharge will only apply to the Long Island Estates water customers of Aubon Water Company.

The Company proposed a formula for the calculation of the surcharge and requested an initial surcharge of $12.34 per customer per month. The Company further advised its customers that the "Surcharge may be adjusted per billing cycle using the above formula based on changes in the number of connected customers, or revisions to the construction costs."

The receivership was progressing well until the VDH refused to include in the VDWSRFP loan Spectrum's outstanding engineering charges for work done on the Long Island Estates water treatment plant. In support of its decision, VDH stated the Company's former owner violated VDWSRFP loan procedures by not competitively bidding the engineering services. Without getting into a heated discussion of the merits of this decision, needless to say, this further complicated the administration of the receivership estate. The engineering charges should have been included in the amount of the loan; to do otherwise punishes the Receiver and the Company's customers for something over which they had no control. [5]

Since the surcharge was first implemented, the method of its calculation has changed slightly. Rather than monthly loan payments, semi-annual payments must be made. Additionally, the total amount of the loan increased from $93,671.00 to $141,000.00. The additional cost was associated with increasing the size of the filter from a 30-inch filter, which was originally specified, to a 42-inch filter. This design change required Spectrum to re-engineer the system; Spectrum's charges were not included in the loan. Based on the increased amount of the loan, the Company is presently collecting a surcharge of $18.18 from its Long Island Estates customers.

Resolution of this case requires the exercise of common sense. The Staff freely admits that the amounts owed to Spectrum are properly classified as capital costs related to the water treatment facility. However, the Staff opposes including these costs in the calculation of the surcharge. The Staff's objection, that the Company's customers had no notice, is without merit. Following Staff's

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Without the sale of the Franklin Heights water system by the Receiver, the Company would be in much worse financial condition. The former owner of the Company showed no intention of defending the Company's property right in the Franklin Heights water system or negotiating with the Town of Rocky Mount for the sale of the Franklin Heights system.

[5] Aubon's former owner first sought to obtain financing for the water treatment facility from a commercial lender. At the time, the engineering work for the water treatment facility was substantially complete. When the commercial lender turned him down, he applied for financing from the VDWSRFP, but was twice turned down.

reasoning to its logical conclusion, the Commission should not consider the Staff's alternate formula for calculation of the surcharge because the Company's customers were not provided notice of the formula. The Staff's formula for calculation of the surcharge differs materially from the formula provided to the Company's customers in the Notice of Surcharge. Common sense dictates that all the capital costs for the water treatment facility should be included in one surcharge. Common sense also dictates that the outstanding balance owed Spectrum should be paid off in short order, since Spectrum charges a late payment fee of 1% per month on all accounts over 60 days past due.

The Notice of Surcharge provided the Company's Long Island Estates customers with adequate notice that they would be responsible for paying off the total cost of the water treatment facility. At the time, they were also notified that the cost of the facility might increase because of required engineering changes. The formula for calculation of the surcharge should be irrelevant so long as the Long Island Estates customers do not end up paying more for the water treatment facility than it cost.

Expressed as a mathematical formula, the surcharge should be calculated in the following manner for a period of one year. Thereafter, the formula proposed by the Staff based on total actual disbursements should be followed.

Total Principal & Interest	$207,239.57
- Interest Payment Due April 1, 2003	- 2,835.47
Amount Due on Loan	204,404.10
÷ No. of Remaining Payments	÷ 39
Average Semi-Annual Payment	5,241.13
÷ No. of Months in Payment Period	÷ 6
Monthly Collections Necessary	873.52
÷ No. of Customers	÷ 47
Monthly Loan Payoff Surcharge	$18.59
+ Balance owed to Spectrum	+ 3,712.35
÷ No. of Customers	÷ 47
Annual Surcharge per Customer	78.99
÷ No. of Months in Payoff Period	÷ 12
Total Surcharge	$25.17

I further disagree with Staff that an additional $6.58 per month included in the surcharge for a period of one year would be overly burdensome. The Receiver noted in his testimony that the Company's Long Island Estates water customers are saving money because they no longer have to incur the cost of running their home water filtration systems. A customer could simply apply these savings to offset the additional surcharge.

Finally, I disagree with the Staff that increasing the surcharge violates the 12-month rule regarding rate increases. Following this logic, the initial surcharge proposed by the Company likewise violates the 12-month rule regarding rate increases. For example, if two customers leave the Long Island Estates water system in two successive months, the surcharge would increase twice within a 12-month period. Again, common sense must prevail in this case. Virginia Code § 56-

265.13:6.1 B provides, in part, that: "[t]he receiver shall be empowered to make application to the Commission for temporary and permanent rate increases and changes in the utility's rules and regulations." I would note that the statute speaks of the receiver's ability to request more than one temporary or permanent rate increase, and does not otherwise limit the receiver to one rate increase in a 12-month period. Simply put, when a water company is in receivership, the receiver may need the flexibility to request more than one rate increase in a 12-month period for financial and operational reasons. The statute clearly provides the receiver this flexibility.

In summary, I find the Commission should authorize the Receiver to use the excess amounts collected since the surcharge was placed into effect to reduce the balance owed to Spectrum to $3,712.35. I further find the Commission should authorize the Company to impose a surcharge of $25.17 for the period April 1, 2003 through March 31, 2004, applicable only to customers served by the Long Island Estates water system and adjusted monthly for the number of customers actually served. Thereafter, the Commission should authorize the Company to impose a surcharge of $18.59 until the VDWSRFP loan is paid off, adjusted monthly for the number of customers actually served by the Long Island Estates water system. Lastly, I find the Commission should require the Receiver and the Company to satisfy the reporting requirements set forth in the Staff's recommendations.

In the interest of judicial economy, rather than having numerous cases dealing with the same subject, I find the Commission should retain jurisdiction of this case to address any further matters that may affect the receivership estate, including Petrus's Petition to Acquire Aubon Water Company and the Company's request for a general rate increase.

FINDINGS AND RECOMMENDATIONS

Based on the evidence received in the case, and for the reasons set forth above I find that:

(1) The Commission should authorize the Receiver to use the excess amounts collected since the surcharge was placed into effect to reduce the outstanding debt owed to Spectrum;

(2) The Commission should authorize the Company to impose a surcharge of $25.17 for the period April 1, 2003 through March 31, 2004, adjusted monthly for the number of customers actually served by the Long Island Estates water system. Thereafter, the Commission should authorize the Company to impose a surcharge of $18.59 until the VDWSRFP loan is paid off, adjusted monthly for the number of customers actually served by the Long Island Estates water system;

(3) The Commission should require the Receiver and the Company to file the information set forth in the Staff's recommendations; and

(4) The Commission should retain jurisdiction of this case to address any further matters that may affect the receivership estate.

I therefore ***RECOMMEND*** the Commission enter an order that:

(1) ***ADOPTS*** the findings contained in this Report;

(2) ***APPROVES*** the implementation of the surcharge as set forth herein;

(3) ***REQUIRES*** the Receiver and the Company to file the information set forth in the Staff's recommendations; and

(4) ***RETAINS*** jurisdiction of the case until further order of the Commission.

COMMENTS

The parties are advised that any comments (Section 12.1-31 of the Code of Virginia and 5 VAC 5-20-120 C) to this Report must be filed with the Clerk of the Commission in writing, in an original and fifteen (15) copies, within ten (10) days from the date hereof. The mailing address to which any such filing must be sent is Document Control Center, P.O. Box 2118, Richmond, Virginia 23218. Any party filing such comments shall attach a certificate to the foot of such document certifying that copies have been mailed or delivered to all counsel of record and any such party not represented by counsel.

Respectfully submitted,

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Michael D. Thomas
Hearing Examiner